

BEFORE THE  
FEDERAL ELECTION COMMISSION  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

**SENSITIVE**

Chris Redfern  
The Ohio Democratic Party  
271 E. State St.  
Columbus, OH 43215,

2007 AUG -2 P 4:29

Complainant,

v.

MUR# 5930

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
2007 AUG -1 P 1:26

Kirk Schuring  
400 Market Avenue North  
Suite 400  
Canton, OH 44702; and

Citizens for Schuring Congressional Exploratory Committee  
400 Market Avenue North  
Suite 400  
Canton, OH 44702,

Respondents.

**COMPLAINT**

Complainant files this complaint against Kirk Schuring and the Citizens for Schuring Congressional Exploratory Committee (collectively, "Respondents"), for violations of the reporting requirements of the Federal Election Campaign Act and Federal Election Commission regulations, as described below.

**I. FACTS**

The Citizens for Schuring Congressional Exploratory Committee ("the Committee") is the authorized committee of Kirk Schuring, for the House of Representatives from the 16th District in the state of Ohio. The Committee's Form 1 Statement of Organization was filed on June 7, 2007.

Yet Mr. Schuring has never filed a Statement of Candidacy with the Federal Election Commission.

29044230020

On July 20, 2007, the Committee filed an amended semi-annual report with the Commission, that showed that the Committee raised a total of \$136,375.00 in the quarter. In that period, the Committee spent only \$6,447.98 on operating expenditures.

## **II. LEGAL ARGUMENT**

### **A. Legal Background**

Under the Federal Election Campaign Act, an individual becomes a candidate for federal office, triggering the Act's registration and reporting requirements, when his or her campaign exceeds \$5,000 in contributions or expenditures. 2 U.S.C. § 431(2). Among other requirements, a candidate must file a statement of candidacy within 15 days of becoming a candidate. *Id.* § 432(e)(1). However, the regulations permit an individual who has not made the decision to run for office to raise funds for "testing the waters" to make that decision. 11 C.F.R. §§ 100.72, 100.131. While an individual is testing the waters, he or she may raise or expend funds otherwise permissible for activities such as conducting a poll, making telephone calls and traveling. *Id.*

An individual becomes a candidate if he or she takes actions relevant to conducting a campaign; those actions include "rais[ing] funds in excess of what could reasonably be expected to be used for exploratory activities *or undertakes activities designed to amass campaign funds that would be spent after he or she becomes a candidate.*" *Id.* §§ 100.72(b)(2), 100.131(b)(2) (emphasis added).

### **B. Application to Facts**

The facts demonstrate that Schuring is accumulating funds in vast excess of what can reasonably be expected to be used for exploratory activities, and is amassing campaign funds to be used to promote an actual candidacy.

Schuring has raised \$136,375.00. Such a large amount calls into question whether he has raised only what he needs to decide whether to run. Tellingly, he has spent virtually none of those funds, leaving a \$129,841.62 war chest as of June 30. The testing the waters provision

allows Schuring only to raise enough funds to conduct actual exploratory activities. Yet he is obviously trying to amass funds in hopes of furthering an actual candidacy.

The Commission has only allowed candidates to collect large amounts of funds under the testing the waters exemption when the funds were actually being spent on exploratory activities. For example, in MUR 5703, the Commission allowed a candidate to raise \$100,000 to test the waters, but only when it had spent approximately \$48,000 at the time the statement of candidacy was filed.

Here, by contrast, Respondents have accumulated funds while spending almost nothing. This is a clear demonstration of active candidacy – and a violation of the reporting requirements.

### III. REQUESTED ACTION

As we have shown, the respondents have violated the Federal Election Campaign Act. Accordingly, we request that they be enjoined from further violations, be required to repay their illegal contributions and be fined the maximum amount permitted by law.

Sincerely,

SUBSCRIBED AND SWORN to before me this 30<sup>th</sup> day of July, 2007.

David G. Duffy  
Notary Public

My Commission Expires:

DAVID L. DUFFEY  
Notary Public, State of Ohio  
My Commission has no Expiration Date